

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2430 – SB 2209

March 6, 2016

SUMMARY OF ORIGINAL BILL: Enacts the Cancer Patient Choice Act. Establishes requirements regarding the treatment of certain patients with cancer by requiring all physician-prescribed proton therapy for the treatment of breast or prostate cancer under a hypofractionated protocol as part of a clinical trial or registry to be covered by commercial insurance as an in-network service and by TennCare.

Establishes the required number of treatments for both breast and prostate cancer and a fixed amount payable for the proton treatment delivery for both the initial treatments and any additional treatments. Specifies that if the application of the fixed rates exceed the total cost of intensity modulated radiation therapy (IMRT) treatment for TennCare enrollees and the state sponsored health plans, the percentages will be adjusted for both programs so that the cost of a course of hypofractionated proton therapy treatment is equal to the programs weighted average cost for a standard course of IMRT treatment. Also allows for adjustments if a payer's cost exceeds the weighted average total cost for a standard course of IMRT treatment.

Benefits will be subject to the annual deductible and coinsurance established for all other similar benefits within the policy or contract of insurance; provided the annual deductible and coinsurance for the benefits cannot be greater than the annual deductible and coinsurance established for all other similar benefits within that policy or contract of insurance.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – Exceeds \$6,360,700

Increase Federal Expenditures – Exceeds \$493,900

Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation will result in an increase in the cost of health insurance premiums for hypofractionated proton therapy treatment being provided by plans that do not currently offer these benefits at the proposed mandated levels. It is estimated that the increase to each individual's total premium will be less than one percent. A one percent increase in premium rates could range between \$50 (single coverage) and \$140 (family coverage) on average depending on the type of plan.

SUMMARY OF AMENDMENT (012706): Deletes all language of the original bill. Enacts the Cancer Patient Choice Act. Establishes requirements for all commercial insurance plans to provide coverage for physician-prescribed proton therapy for all indications covered by Medicare.

Benefits will be subject to the annual deductible and coinsurance established for all other similar benefits within the policy or contract of insurance; provided the annual deductible and coinsurance for the benefits cannot be greater than the annual deductible and coinsurance established for all other similar benefits within that policy or contract of insurance.

Establishes that this Act shall not apply to TennCare or any successor program. An insurer, third-party administrator, or healthcare services plan is not required to offer the coverage provided in this section as part of any contract covering employees of a public entity through the state group insurance program.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – Exceeds \$4,506,000

Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation will result in an increase in the cost of health insurance premiums for proton therapy treatment being provided by plans that do not currently offer these benefits at the proposed mandated levels. It is estimated that the increase to each individual's total premium will be less than one percent. A one percent increase in premium rates could range between \$50 (single coverage) and \$140 (family coverage) on average depending on the type of plan.

Assumptions for the bill as amended:

- Based on information provided by the Bureau of TennCare, the proposed legislation exempts TennCare enrollees but not CoverKids enrollees; therefore, any fiscal impact to TennCare programs would be not significant.
- Based on information provided by the Division of Health Care Finance and Administration, any fiscal impact to the CoverKids program will not be significant.
- Based on information provided by the Department of Finance and Administration, Division of Benefits Administration, the proposed legislation would exempt State Plans; therefore, any fiscal impact would be not significant.
- The Department of Commerce and Insurance (DCI) is responsible for regulation of the provisions of the bill as amended. Any cost incurred due to regulation can be accommodated within existing resources without an increased appropriation or reduced reversion.

- Federal 45 C.F.R. §155.70 authorizes a state to require a qualified health plan (QHP) to offer benefits in addition to the essential health benefits. If the state-required benefits are in addition to the essential health benefits (EHB), then the state must make payments to defray the cost of the additional required benefits to an enrollee or directly to the QHP issuer on behalf of the enrollee.
- According to DCI, the legislation imposes a health insurance benefit mandate that exceeds the benefits provided under the Tennessee EHB plan.
- Pursuant to the Patient Protection and Affordable Care Act (PPACA), states are required to defray the cost of benefit mandates enacted after December 31, 2011, that require coverage of benefits by qualified health plans that exceed benefits included in the state's EHB benchmark plan.
- According to the DCI, a state may defray the cost of a mandate by reimbursing the health insurance carrier for the amount of premium attributed to the new benefit, or for the insurance carrier's actual costs. The DCI assumes the state will reimburse the health insurance carriers for the amount of premium attributed to the new benefit.
- In a census released by the U.S. Department of Health and Human Services, 250,500 Tennesseans have obtained health coverage on the federally facilitated exchange as of January 2016. Due to the trend of enrollment numbers increasing during the end of the enrollment period, it is estimated that 25,000 additional Tennesseans will obtain coverage on the exchange. In addition, based on data currently provided by carriers, the DCI estimates that approximately 100,000 individuals have obtained a QHP off the exchange. Therefore, the total QHP population is estimated to be 375,500 (250,500 + 25,000 + 100,000) for calendar year 2016.
- Based on cost data provided by health insurance carriers offering QHPs, DCI estimates that the average additional cost per enrollee over a six month period is \$6.00, resulting in an increase in expenditures of \$4,506,000 in FY16-17 [375,500 enrollees x (\$6 x 2 six-month period)].
- Current federal rules only apply through calendar years 2016 at which time the federal Department of Health and Human Services will reevaluate EHB determinations. For purposes of this analysis, the fiscal impact is applied to calendar year 2017 under the assumption that current rules will remain consistent.
- Private sector health insurance premium impact: The provisions of the bill as amended will result in an increase in covered individuals receiving benefits for cancer. Health insurance premiums will increase to cover the costs of the additional benefits; the estimated cost to health insurance for proton therapy is estimated to increase each individual's total premium by less than one percent. Based on a 2011 report by the Fiscal Review Committee staff, a one percent increase in premium rates will range between \$50 (single coverage) and \$140 (family coverage) on average depending on the type of plan.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Increase Business Revenue - \$4,516,100

Increase Business Expenditures – Less than \$4,516,100

Assumptions for the bill as amended:

- Health care providers that provide proton therapy treatment will incur an increase in revenue to cover the cost of the increased coverage provided by insurance companies as a result of the proposed legislation.
- Insurance companies will realize an increase in premium revenue to cover the increased coverage.
- An exact impact to commerce cannot be determined due to a number of unknown factors but the increase revenue is reasonably estimated to exceed the amount of increased state and federal expenditures resulting from the proposed legislation.
- For companies to retain solvency, any increased expenditures will be less than the amount of revenue collected.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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